

AUG 29 2011

Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. PT 2009-3493

MARITZA LORENA MAGANA
9903 McKinley Street
Rancho Cucamonga, CA 91730

FIRST AMENDED ACCUSATION

Psychiatric Technician License No. PT 34958

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about July 20, 2009, the Board of Vocational Nursing and Psychiatric Technicians ("Board") issued Psychiatric Technician License Number PT 34958 to Maritza Lorena Magana ("Respondent"). The Psychiatric Technician License will expire on July 31, 2012, unless renewed.

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7. Section 4521 provides, in pertinent part:

“The board may suspend or revoke a license issued under this chapter [the Psychiatric Technicians Law (Code, § 4500 et seq.)] for any of the following reasons:

“(a) Unprofessional conduct, which includes but is not limited to any of the following: . . .

• • • •

“(f) Conviction of any offense substantially related to the qualifications, functions, and duties of a psychiatric technician, in which event the record of the conviction shall be conclusive evidence of the conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

• • • •

“(n) The commission of any act involving dishonesty, when that action is substantially related to the duties and functions of the licensee.”

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 2578, states:

“For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed psychiatric technician if to a substantial degree it evidences present or potential unfitness of a licensed psychiatric technician to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

• • • •

“(e) Conviction of a crime involving fiscal dishonesty.

“(f) Any crime or act involving the sale . . . of ‘narcotics or dangerous drugs . . .’ as defined in Section 4022 of the Business and Professions Code.”

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1 **COST RECOVERY**

2 9. Section 125.3 provides, in pertinent part, that a board may request an administrative
3 law judge to direct a licensee found to have committed violations of the licensing act to pay a
4 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Convictions of Substantially Related Crimes)**

7 10. Respondent is subject to disciplinary action under sections 490 and 4521, subdivision
8 (f), in conjunction with California Code of Regulations, title 16, section 2578, in that Respondent
9 was convicted of crimes that are substantially related to the qualifications, functions, and duties of
10 a psychiatric technician as follows:

11 a. On March 2, 2010, after pleading nolo contendere, Respondent was convicted of one
12 misdemeanor count of violating Penal Code section 32 (accessory to a felony), in the criminal
13 proceeding entitled *People v. Magana* (Super. Ct. San Bernardino County, 2010, No.
14 FWV1000409). Respondent was sentenced to 90 days in jail, placed on probation for a period of
15 24 months, and fined. In a felony complaint filed February 23, 2010, Respondent had also been
16 charged with one count of transportation of the controlled substance of heroin and another count
17 of transportation of the controlled substance of cocaine (Health & Saf. Code, § 11352, subd. (a)).
18 The circumstances surrounding the conviction are that on or about February 19, 2010, an Ontario
19 police officer, during a routine traffic stop, pulled Respondent over for failing to turn her signal
20 on when making a left turn. The officer had received prior information by an informant regarding
21 a black SUV occupied by a Hispanic female who was allegedly selling heroin and known to
22 deliver drugs in the city of Ontario. Noticing that Respondent and her vehicle fit the description
23 of the informant, the officer asked for and received Respondent's permission to search her SUV.
24 During the officer found a tobacco case that contained 28 balloons of heroin and cocaine.

25 b. On March 10, 1999, after pleading guilty, Respondent was convicted of one
26 misdemeanor count of violating Penal Code section 488 (petty theft), in the criminal proceeding
27 entitled *People v. Magana* (Super. Ct. San Bernardino County, 1998, No. MWV049332).
28 Respondent was sentenced to 1 day in jail, placed on probation for a period of 24 months, fined

1 and ordered to stay away from the JC Penney in Ontario. The circumstances surrounding the
2 conviction are that on or about December 19, 1998, Respondent was arrested for petty theft.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Dishonest Acts)**

5 11. Respondent is subject to disciplinary action under section 4521, subdivision (n) for
6 committing dishonest acts and being convicted of crimes involving dishonest acts. Complainant
7 refers to and incorporates all the allegations contained in paragraph 10, above, subparagraphs (a)
8 and (b), inclusive, as though set forth fully.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct)**

11 12. Respondent is subject to disciplinary action under section 4521, subdivision (a), in
12 that Respondent committed acts of unprofessional conduct. Complainant refers to and
13 incorporates all the allegations contained in paragraph 10, above, subparagraphs (a) and (b),
14 inclusive, as though set forth fully.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board issue a decision:

- 18 1. Revoking or suspending Psychiatric Technician License No. PT-34958, issued to
19 Respondent Maritza Lorena Magana;
- 20 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
21 enforcement of this case, pursuant to Code section 125.3; and
- 22 3. Taking such other and further action as deemed necessary and proper.

23
24 DATED: August 29, 2011



25 TERESA BELLO JONES, J.D., M.S.N., R.N.
26 Executive Officer
27 Board of Vocational Nursing and Psychiatric Technicians
28 Department of Consumer Affairs
State of California
Complainant

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